

**THE MINUTES OF THE SPECIAL CITY COUNCIL MEETING HELD  
WEDNESDAY, OCTOBER 5, 2016 AT 9:00 A.M.**

The Meeting was called to order at 9:00 a.m. Present: Council Chair Gaylor Baird; Council Members: Camp, Christensen, Eskridge, Fellers, Lamm, Raybould; City Clerk: Teresa J. Meier.

Council Chair Gaylor Baird announced that a copy of the Open Meetings Law is posted at the back of the Chamber by the northwest door. She asked all present to stand and recite the Pledge of Allegiance and observe a moment of silent meditation.

**READING OF THE MINUTES**

CAMP            Having been appointed to read the minutes of the City Council proceedings of October 3, 2016, reported having done so, found same correct.

Seconded by Christensen & carried by the following vote: AYES: Camp, Christensen, Eskridge, Fellers, Gaylor Baird, Lamm, Raybould; NAYS: None.

**PUBLIC HEARING**

APPROVING THE 2016-2017 CITY TAX RATE OF .33366 PER \$100.00 OF ASSESSED VALUATION;  
APPROVING THE 2016-2017 CITY TAX RATE OF .32194 PER \$100.00 OF ASSESSED VALUATION -

Roy Christensen, Council Member, stated he requested the Special Council Meeting because this is the last time the entire Council will be together before the deadline of getting the levy to the County Board. It is time to vote on these items and this gives every Council Member the opportunity to vote. Having a levy in place is more preferable than having no levy in place before the deadline. If there is no levy in place the previous revenues would be the basis for establishing a levy by default. The Mayor nor the Council majority want that.

Leirion Gaylor Baird, Council Chair, invited anyone from the public to speak to this item - no public came up to speak.

Jane Raybould, Council Member, asked how the Council and the Mayor handled this type of situation in the past.

Don Herz, Interim Finance Director, stated that over the course of the years there have always been issues and debates, this one is a unique situation, and there have not been previous years like this. Ultimately, there is always a resolution.

Ms. Raybould asked if Judge Otte does not rule by the deadline, can an extension be requested.

Mr. Herz stated he does not think an extension is possible.

Trent Fellers, Council Member, stated since item number 1 is a subject of a lawsuit that has not been decided on, would it be appropriate to even vote on that item.

Jeff Kirkpatrick, City Attorney, confirmed there is no principal of law that he is aware of that would prevent Council from taking any action on that item. There are situations where a stay can be requested which would freeze the situation. In the current lawsuit, no one has requested a stay from the court. A stay might not necessarily be appropriate in this situation.

Jon Camp, Council Member, stated it appears to him that there are 3 possible outcomes regarding the property tax rate. One would be the Mayor's tax rate, second would be the Council's tax rate that was adopted, then vetoed by the Mayor, and, finally, going back to the prior levy that is less than both the Mayor and Council tax rate because it would not account for the Storm Water Bond.

Mr. Kirkpatrick stated his understanding is that it would not go back to the previous years tax rate. It would go back to the prior tax receipts. Which means, it would be a lower rate than what the rate was last year.

Mr. Camp asked if the previous rate is based on the dollar amount, or the mill levy rate.

Mr. Herz stated the dollar amount is \$3,580,648 less. The levy would be sufficient enough to cover last years dollar amount and because of increased valuations the actual levy would be a little less than last year.

Mr. Camp stated there is 10% that was not used last year that would carry forward. The Mayor's budget would mean spending a little less on administration. Voting on a tax rate today would prevent having to go to a backup of last years revenue.

Mr. Kirkpatrick confirmed there is a special meeting set for next Tuesday, and it is still possible that the judge would not have a decision by next Tuesday. There is nothing that requires the Judge to give a decision by that date. It is possible, that if Council meets next Tuesday, they could still be in the same position they are currently in.

Ms. Raybould asked if no levy is passed what will happen with the Storm Water Bond.

Jan Bolin, Finance Department, came forward and clarified that if last years tax rate is approved, then the funding for the Storm Water Bond will not be included. If the Council tax levy is approved, then the Storm Water Bond will be included.

Mr. Camp stated if we went back to last years revenues, and we have to meet the Storm Water Bond requirements, this would mean within those revenues there would have to be a reallocation, and the Storm Water Bond is a priority. There might be something that could go unfunded. If sales tax goes up, then it is possible that we may get more sales tax.

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Ms. Raybould asked if the Storm Water Bond was \$6.5 million, and if it is paid over 15 or 20 years, what would be the pull back to make sure we could make the bond payment.

Mr. Fellers clarified he thinks the debt service amount was around \$630,000.00 to \$650,000.00 per year. The bonds would be issued with an obligation to pay them. If Council is at an impasse, and the levy was set to the lowest amount, the City would have to absorb those bond payments in order to keep their triple A bond rating. The bond would have to be paid and there is no way around that.

Ms. Raybould asked for the biennial would they have to come up with \$1.2 million.

Mr. Fellers stated they would only pay the \$630,000.00 payment for the year, and the rate has the opportunity to be set again next year. This is only a 1 year levy rate.

Ms. Raybould asked how much we would be short if we went back to last years revenues.

Ms. Bolin confirmed we would be short \$3.5 million and the bond payments are included in that.

Carl Eskridge, Council Member, stated going back to last years revenues and being short \$3.5 million is troubling for him. Council has looked at budgets for City staff, what their average is, their health insurance, all the benefits, and salary increases of 2% and 3%. If there are less funds there to do what we are currently doing, the only way to get there is to cut employees. Council has always protected people in the community who are vital, protected law enforcement, protected fire employees, and protected public safety. If the lower tax rate passes it will be difficult to continue to protect these employees. There is currently an issue pending before the courts. The ruling from Judge Otte will be the influence on how Mr. Eskridge votes.

Ms. Raybould asked in order to safeguard some tax rate would it be appropriate to pass both, the Mayor tax rate and the Council tax rate today.

Mr. Fellers stated if both tax rates are passed then Judge Otte would not need to make a ruling.

Mr. Christensen shared if both levy's are passed, what he feels would happen is the Mayor would sign his tax levy and then veto the Council's levy. The Judge would then consider the case settled and it would be dismissed.

Leirion Gaylor Baird, Council Chair, asked if it is possible to pass competing levy's at the same time and what would happen if Council votes down both levy's.

Mr. Kirkpatrick stated he cannot think of any legal principal that would prevent passing both levy's. If both levy's are voted down, Council will be in the same position they are in now.

Ms. Gaylor Baird asked what levy is in place currently.

Mr. Kirkpatrick stated the levy that is in place currently is the default levy which is the previous years tax receipts.

Ms. Gaylor Baird asked if Council passes their levy and the Mayor then veto's that levy, how is Council avoiding being in the same position they are currently in.

Mr. Kirkpatrick confirmed the Mayor does not have to make the veto determination immediately. The Mayor could potentially wait on the Court's opinion before making his decision to veto the Council levy.

Ms. Gaylor Baird asked Mr. Kirkpatrick's legal opinion on what Council should pass today.

Mr. Kirkpatrick stated he had given his opinion to the Council that is on the record, which is now before the court, and the court will then make its ruling. His opinion has not changed and it is now before the court.

Mr. Eskridge inquired depending on what the court decides, how long of a process would an appeal take.

Mr. Kirkpatrick shared he had not looked closely at the backlog, but would assume this is the type of case the Supreme Court would be interested in taking up. Four months would probably be the soonest for this type of process. It would not be surprising if it took up to 8 or 9 months. Even if this does go up for appeal, the levy will already be set for the year. If an appeal is filed, and an answer is given either in May, June or July, the levy for the year has already been set and Council will then be looking at the 2017 - 2018 tax year, which there will be another levy to consider and pass at that point.

Ms. Gaylor Baird asked if the court would make their decision based on what Council's decision is today.

Mr. Kirkpatrick stated as legal principal a court should not take any regard for anything that is not formally brought before that court. So that both sides have their opportunity to present evidence.

This matter was taken under advisement.

## **COUNCIL ACTION**

### **PUBLIC HEARING - RESOLUTIONS**

APPROVING THE 2016-2017 CITY TAX RATE OF .33366 PER \$100.00 OF ASSESSED VALUATION -  
CLERK read the following resolution, introduced by Carl Eskridge, who moved its adoption.

Seconded by Raybould & carried by the following vote: AYES: Gaylor Baird, Raybould; NAYS: Camp, Christensen, Eskridge, Fellers, Lamm.

The resolution, having **LOST**, was assigned File #38-4674 & was placed on file in the Office of the City Clerk.

APPROVING THE 2016-2017 CITY TAX RATE OF .32194 PER \$100.00 OF ASSESSED VALUATION -  
CLERK read the following resolution, introduced by Roy Christensen, who moved its adoption:

A-90023 A RESOLUTION establishing a final property tax levy for the City's 2016-2017 fiscal year and  
adjusting the City tax rate required in the City budget resolution on August 22, 2016.

RECITALS

I.

Pursuant to Neb. Rev. Stat. § 77-1601.02, the City Council of the City of Lincoln is authorized to  
pass, by a majority vote, a resolution setting the final tax rate.

II.

Pursuant to Neb. Rev. Stat. § 77-1601.02, notice was published in a newspaper of general  
circulation on September 30, 2016 which date was at least five days prior to October 5, 2016 being the date  
upon which the City Council held a special public hearing called for the purpose of considering and acting  
upon this resolution.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska.

That after notice and public hearing as required by law, the City Council does hereby set the  
following final levy for the City of Lincoln 2016-2017 fiscal year for a property tax request of \$60,752,736:  
\$0.32194 per \$100 of assessed valuation which total rate is comprised of the following:

Bond Interest & Redemption	.03402
General	.18722
Library	.04443
Social Security	.01581
Police and Fire Pension	.04019
Unemployment Compensation	<u>.00027</u>
Total	.32194

Seconded by Lamm & carried by the following vote: AYES: Camp, Christensen, Fellers, Lamm;  
NAYS: Eskridge, Gaylor Baird, Raybould.

**ADJOURNMENT**

**9:50 A.M.**

CHRISTENSEN Moved to adjourn the City Council Meeting of October 5, 2016.

Seconded by Lamm & carried by the following vote: AYES: Camp, Christensen, Eskridge, Fellers,  
Gaylor Baird, Lamm, Raybould; NAYS: None.

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Teresa J. Meier, City Clerk

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Monet J. McCullen, Office Specialist

